

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

COUNTY OF ANGELINA

Plaintiff,

v.

PURDUE PHARMA L.P., et al.

Defendants.

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Case No. 4:18-cv-04707

MOTION TO RECONSIDER ORDER GRANTING REMAND

Purdue Pharma L.P., Purdue Pharma Inc., and The Purdue Frederick Company (together, “Purdue”), respectfully request that this Court reconsider its Order of February 21, 2019, granting Plaintiff’s Motion to Remand (Dkt. 16) in light of conflicting decisions from Judge Bennett, Judge Hoyt, and Judge Rosenthal in the following cases: *County of Blanco v. Purdue Pharma L.P., et al.*, No. 4:18-cv-04705 (S.D. Tex. 2018); *County of Hardin v. Endo Health Solutions, Inc., et al.*, Case No. 4:19-cv-0114 (S.D. Tex. 2019); *County of Jasper v. Purdue Pharma L.P., et al.*, No. 4:18-cv-04706 (S.D. Tex. 2018), respectively.

Angelina County filed its lawsuit in Texas state court on November 14, 2018. Similar suits were filed by the County of Blanco and the County of Jasper on November 5, 2018. On December 13, 2018, Purdue timely removed Angelina County’s lawsuit—along with the suits brought by the counties of Blanco and Jasper. (Notice of Removal (Dkt. 1); Notice of Removal, *County of Blanco*, No. 4:18-cv-04705 (Dkt. 1); Notice of Removal, *County of Jasper*, No. 4:18-cv-04706 (Dkt. 1).) The basis for removal in each case was diversity of citizenship. In particular, each Notice of Removal stated that one of the individuals in the chain of ownership of

Purdue Pharma L.P. had changed his domicile from Texas to Florida before the Angelina, Blanco, and Jasper cases were filed.

On December 18, 2018, Angelina, Blanco, and Jasper Counties filed a Joint Motion to Remand, in which they disputed Purdue Pharma L.P.'s citizenship, claiming that the individual in the chain of ownership at issue—Dr. Richard Sackler—had not, in fact, moved to Florida. (Pl.'s Joint Mot. to Remand (Dkt. 4); *County of Blanco*, No. 4:18-cv-04705 (Dkt. 4); *County of Jasper*, No. 4:18-cv-04706 (Dkt. 4).) On January 8, 2019, Purdue filed its opposition, in which Purdue presented evidence of Dr. Sackler's change in citizenship from Texas to Florida. (Purdue's Response to Pl.'s Joint Mot. to Remand (Dkt. 11).) Attached to Purdue's opposition was the sworn declaration of Dr. Sackler and other documentary evidence establishing that Dr. Sackler had sold his Texas residence, leased a new residence in Florida, exchanged his Texas driver's license for a Florida driver's license, and registered to vote (and voted) in Florida before the filing of each case.

On January 11, 2019, two additional related opioid cases, filed by the County of Hardin and the County of Newton, were removed to federal court by Defendant Endo Health Solutions, Inc. also based on diversity jurisdiction. (*County of Hardin*, No. 4:19-cv-0114 (Dkt. 1); *County of Newton v. Endo Health Solutions, Inc., et al.*, Case No. 4:19-cv-0117 (S.D. Tex. filed Jan. 11, 2019) (Dkt. 1).) The Hardin and Newton County Notices of Removal also described Dr. Sackler's change of citizenship and attached the same declaration from Dr. Sackler and other documentary evidence that was included with Purdue's opposition to the Angelina, Blanco, and Jasper County Joint Motion to Remand. On January 18, 2019, Plaintiffs in the Newton and Hardin County cases filed a Motion to Remand, asserting that Dr. Sackler remained a Texas

citizen, despite the evidence to the contrary. (*County of Hardin*, No. 4:19-cv-0114 (Dkt. 4); *County of Newton*, No. 4:19-cv-0117 (Dkt. 5).)

On January 30, 2019, Judge Alfred H. Bennett denied Plaintiff's Joint Motion to Remand (filed on behalf of Angelina, Blanco, and Jasper Counties) as to Blanco County. (Order, attached as Exhibit A.) On February 12, 2019, Judge Kenneth M. Hoyt denied Plaintiff's Motion to Remand in *County of Hardin* and stayed the case pending transfer to the Federal MDL. (Order, attached as Exhibit B.)

On January 4, 2019, the Judicial Panel on Multidistrict Litigation conditionally transferred this action to *In re Nat'l Prescription Opiate Litig.*, (MDL 2804) (the "Federal MDL") because it "involve[s] questions of fact that are common to the actions previously transferred to" the MDL. Plaintiff filed a Notice of Opposition to CTO on January 10, 2019. (Notice of Opposition to CTO, *In re Nat'l Prescription Opiate Litig.*, (MDL No. 2804) (J.P.M.L. filed Jan. 10, 2019) (Dkt. 3418).) Plaintiff filed its Motion to Vacate on January 29, 2019, and Purdue filed its opposition on February 19, 2019. (Motion to Vacate Conditional Transfer Order, *In re Nat'l Prescription Opiate Litig.*, (MDL No. 2804) (J.P.M.L. filed Jan. 29, 2019) (Dkt. 3610); The Mfr. Def.s' Opp. To Pl.s' Mot. to Vacate CTO-74, *In re Nat'l Prescription Opiate Litig.*, (MDL No. 2804) (J.P.M.L. Feb. 19, 2019) (Dkt. 3783).) The JPML will hear the matter on March 28, 2019, with a final decision on transfer expected the first week of April. (Notice of Hearing Session, *In re Nat'l Prescription Opiate Litig.*, (MDL No. 2804) (J.P.M.L. filed Feb. 13, 2019) (Dkt. 3753).)

On February 4, 2019, Plaintiffs County of Angelina and County of Jasper filed their Expedited Motion to Reopen and Rule. (Pl.'s Expedited Mot. to Reopen and Rule (Dkt. 13); *County of Jasper*, No. 4:18-cv-04706 (Dkt. 15).) Judge Rosenthal denied Plaintiff's Expedited

Motion to Reopen and Rule in *County of Jasper* on February 6, 2019. (Order, attached as Exhibit C.) Judge Rosenthal found that “[h]aving [the remand] issue decided after transfer avoids duplicative discovery and inconsistent pretrial rulings on the citizenship of Purdue Pharma’s trustees” because “[t]he issues involved in the remand motion may also arise in other cases subject to MDL transfer, in which the citizenship of Purdue Pharma’s trustees is essential to subject-matter jurisdiction.” (*Id.*)

In light of the multiple decisions from Courts within this District that found diversity jurisdiction based upon the same facts at issue here, Purdue respectfully asks this Court to reconsider its Order granting Plaintiff’s Joint Motion to Remand and either deny that motion or allow the motion to be decided upon transfer to the Federal MDL.

Dated: February 22, 2019

Respectfully submitted,

/s/ Noelle M. Reed

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Purdue Pharma L.P.; Purdue Pharma Inc.;
and The Purdue Frederick Company

CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2019, the forgoing document was transmitted to the Clerk of the Court using the ECF System for filing. Based on the records currently on file, the Clerk of the Court will transmit a Notice of Electronic Filing for this filing to all registered counsel of record.

/s/ Noelle M. Reed
Noelle M. Reed